Supreme Court, U.S.
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No. 01-1861

IN THE

Supreme Court of the United States

SVERIGES ANGFARTYGS ASSURANS FORENING d/b/a THE SWEDISH CLUB,
Petitioner,

v.

GLOVEGOLD SHIPPING LIMITED,
Respondent.

On Petition for a Writ of Certiorari to the District Court of Appeal of Florida, First District

PETITIONER'S REPLY BRIEF

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August 12, 2002

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QUESTION PRESENTED

1. Under the Due Process Clause of the United States Constitution, is a foreign maritime insurance company subject to personal jurisdiction wherever it may be foreseeable that an insured ship may go?

LIST OF PARTIES AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Rules 14.1(b) and 29.6, the following list identifies all of the parties to the appellate proceeding in the District Court of Appeal, First District of Florida, whose judgment and opinion are sought to be reviewed.

Appellant below: Sveriges Angfartygs Assurans Forening d/b/a The Swedish Club has no parent corporation. No publicly held corporation owns 10% or more of its stock.

Appellee below: Glovegold Shipping Limited.

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ARGUMENT

THE DECISION BELOW SQUARELY CONFLICTS WITH THIS COURT'S DECISIONS WHICH SET FORTH THE REQUIREMENTS FOR PERSONAL JURISDICTION

Respondent has misinterpreted *Helicopteros Nationales de Colombia S.A. v. Hall*, 466 U.S. 408 (1984), in the same manner as did the Florida District Court of Appeal. Both Respondent and the District Court acknowledged the two types of personal jurisdiction described in *Helicopteros*. Yet, both failed to recognize the distinction between the two, by

relying on facts that can only be applicable to general jurisdiction in order to support a finding of specific jurisdiction. (App. 11a-12a; Resp. 3-4.)

Thus, Respondent says that "the decision below turned upon purposeful activities of the Petitioner directed toward the forum by its:

- Undertaking to insure a risk based in, and operated from, the forum state
- Establishing in the forum state an organization with which to deliver insurance services
- Attending in the forum state as part of its insuring undertaking a casualty sustained by the subject matter of the insurance they provided."

(Resp. 3).

The only facts Respondent can rely upon to prove the first point are that the ship often sailed in Florida waters and that it happened to be in a Florida port when the policy was issued and renewed. These facts relate solely to the activity of the ship itself, controlled by its charterers, and conspicuously fail to demonstrate any activity controlled by the *defendant*, which is the only pertinent inquiry. This paucity of facts fails the test of "purposeful availment" required by *Hanson v. Denckla*, 357 U.S. 235 (1958).

The second and third points are as easily disposed of. The second refers to the fact that Petitioner maintained a list of independent claims service facilities in Florida (and elsewhere) and that certain Florida brokers occasionally obtained insurance with Petitioner on behalf of other ship owners. (App. 5a-6a.) If relevant to anything, these circumstances could relate only to claims of general jurisdiction.

The third point refers to the statement by the Florida District Court of Appeal that one of these claims service facilities investigated the damage to the *Anthenor Express*.

(App. 4a-5a.) Respondent fails to explain how an investigation of the circumstances of a casualty claim can create personal jurisdiction after the fact.

Petitioner is a worldwide maritime insurance company that issued a policy in Sweden, through a broker in London, delivered in Scotland. The policy covered a ship that was one of many managed by a Scottish ship management company. Respondent is a company organized under the laws of Malta with a principal place of business in Greece. The decision of where the ship would sail rested with those who chartered it. The unilateral activity of the plaintiff or a third party is insufficient to permit a court to exercise personal jurisdiction over a non-resident defendant. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985). The risk of loss in any given location, even if foreseeable, is not sufficient to subject a foreign defendant to personal jurisdiction in that forum. *World-wide Volkswagen Corp. v. Woodsen*, 444 U.S. 286 (1980).

CONCLUSION

Referring once again to the question presented, "Under the Due Process Clause of the United States Constitution, is a foreign maritime insurance company subject to personal jurisdiction wherever it may be foreseeable that an insured ship may go?," the answer must be "no." This Court should reverse the far-reaching decision of the Florida court below, which holds otherwise.

Respectfully submitted,

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